IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revision No. 242 of 2003 (O&M)

Date of decision : April 30, 2009

Rajinder

Petitioner

Versus

Kamlesh Walia

Respondent

CORAM : HON'BLE MR. JUSTICE A.N. JINDAL

Present: None for the petitioner

Mr. Vikas Gupta, Advocate for
Mr. A.S. Kalra, Advocate
for the respondent

A.N. JINDAL, J. (ORAL)

No one has put in appearance on behalf of the petitioner.

The case relates to dishonouring of Cheque No. 126162 dated 29.6.93 for Rs. 80,000/-. The cheque was duly tendered by the complainant/respondent which was dishonoured, resultantly a complaint was filed. The trial resulted into conviction and appeal filed by the petitioner was also dismissed.

Record reveals that petitioner had set up the plea that he had returned the entire amount but the complainant forged and fabricated the affidavit Ex. PW 3/4. The Appellate Court has rightly concluded that receipts of marks A, B and C were never put to the complainant in the cross examination. No doubt the expert found the signatures on affidavit Ex. PW 3/4 as forged but the expert opinion is not conclusive. In any case the petitioner has not disputed his signatures on cheque Ex. P2 and the signatures on cheque Ex. P2 were never compared. The defence evidence brought on record

through the statement of Gurmangat Singh DW 1 is an after thought as the accounts books were in possession of the petitioner and Gurmangat Singh DW 1 is his accountant. The entries of the account books DW 1/A and Ex. DW 1/B were not got compared with the Income Tax returns. Therefore, the petitioner appears to have failed to prove the payment of cheque Ex. P2

I have given thoughtful consideration to the pleas set up by the complainant as well as the petitioner and it is observed that both the Courts below have considered the entire evidence and held the petitioner guilty of an offence under Section 138 of Negotiable Instruments Act. No material could be elicited from the record which may impel this Court to differ with the findings of fact, returned by both the Courts below. Thus, no grounds to interfere.

Dismissed.

(A.N.JINDAL)
JUDGE

30.04.2009
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